

JAN 24 2008

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

JUSTIN D. SHERRARD,

Defendant - Appellant.

No. 07-30019

D.C. No. CR-06-00020-DWM

MEMORANDUM*

Appeal from the United States District Court
for the District of Montana
Donald W. Molloy, District Judge, Presiding

Submitted January 14, 2008**

Before: HALL, O'SCANNLAIN, and PAEZ, Circuit Judges.

Justin D. Sherrard appeals from the district court's denial of his motions to suppress following which, after a bench trial, the district court found Sherrard

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

guilty of receipt of child pornography, in violation of 18 U.S.C. § 2252A(a)(2), and possession of child pornography, in violation of 18 U.S.C. § 2252A(a)(5)(B). We have jurisdiction under 28 U.S.C. § 1291, and we affirm.

Sherrard contends that the evidence collected, as well as the statements he made, during the search of his house should be suppressed because the search violated the Fourth Amendment and Federal Rule of Criminal Procedure 41. We disagree. We are unpersuaded by Sherrard's reliance on *United States v. Grubbs*, 547 U.S. 90 (2006), and *Groh v. Ramirez*, 540 U.S. 551 (2004), and so we affirm the district court's orders.

AFFIRMED.